

PLANNING COMMISSION MEETING

A G E N D A

TOWN OF CHINCOTEAGUE

August 28, 2007 - 7:00 P.M. – Council Chambers - Town Hall

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC PARTICIPATION

AGENDA ADOPTION:

1. Adoption of July 18, 2007 Minutes
2. **Public Hearing** for Repeal of Section 2.149 Sight Distance Triangle
 - Possible recommendation for a Zoning Ordinance Change
3. **Public Hearing** for Exterior Door Landings
 - Possible recommendation for a Zoning Ordinance Change
4. Planning Director's Report
 - a. Review of Conditional Use Process and Special Exception Process
 - b. Comprehensive Plan Update-Stakeholder Meetings
5. Setting the date for a public hearing for a possible zoning change of "Article VII-Signs" of the Zoning Ordinance
6. Pony Pines Major Subdivision
7. Commission Members Announcements or Comments
(Note: Roberts Rules do not allow for discussion under comment period)

ADJOURN:

Town of Chincoteague Planning Commission Meeting

July 18, 2007

Minutes

Members Present:

Mr. Robert Behr

Hon. Ellen W. Richardson

Mrs. Mollie Cherrix

Mrs. Jane Wolffe

Mr. Chuck Ward

Mr. Ray Rosenberger, Chairman

Mr. Tom Derrickson

Staff Present:

Mr. Kenny Lewis, Building and Zoning Administrator

Mr. Jared Anderson, Director of Planning

Mr. Robert Ritter, Town Manager

1. Call to Order

Chairman Rosenberger called the meeting to order at 7:00 p.m.

2. Roll Call by Mr. Kenny Lewis

3. Invocation followed by Pledge of Allegiance

4. Public Participation

NONE

5. Adoption Agenda

There was a motion and a second to adopt the agenda as presented. The motion was unanimously approved.

6. Adoption of the June 26, 2007 Minutes

There was a motion and a second to adopt the June 26, 2007 minutes as presented. The motion was unanimously approved.

7. Public Hearing for Possible Zoning Changes to Condominiums, Townhouses, and Multi-Family dwellings in C-1 and C-2 Districts.

Chairman Rosenberger opened the meeting up to the public for comment. There was no public comment.

Mr. Ward feels that Condominiums, Townhomes, and Multi-family dwellings should remain as uses permitted by special exception in the R-3 district because they are a residential use. He also has concerns about using the R-3 area, setback, and lot size requirements if these uses were permitted by Conditional Use only in the C-1 and C-2 districts. The concern being it would not give the Mayor and Council as much discretion as it would if they did not follow R-3 district requirements.

Ms. Wolffe has reservations about leaving Condominiums, Townhouses, and Multi-family dwellings as uses permitted by special exception in the R-3 District. There are pluses and minuses for both leaving it the same and changing it. The minus for leaving it the same is that the Mayor and Town Council would not be able to give any input in the process. The plus for keeping the status quo would be that Council could change every few years so it might be difficult to obtain consistency over the years if it were a conditional use.

Mr. Derrickson asked what the reason was behind changing the uses from their current status. Mr. Lewis stated that by allowing these uses as Conditional Uses it gives the Mayor and Council the ability to make compromises for the well-being of the town. Mr. Derrickson has concerns over the taking of property rights. Another reason for introducing these changes are to protect the limited amount of land in the commercial districts for commercial uses.

Mrs. Wolffe made a motion to recommend using 'alternate second paragraph' for area and setback requirements and 'alternative' paragraph for Lot Size, in addition to the rest of the original motion as set forth by the Town's Attorney. It should also read that only a project with preliminary plat approval will be grandfathered if the said ordinance were to change. The motion was properly seconded. Ayes- Richardson, Behr, Wolffe, Ward, Cherrix, Rosenberger, Nays- Derrickson.

These recommendations will be forwarded to Council.

8. Public Hearing for Conditional Use Permit Application

Ms. Schreiber stated that she would be willing to pick up her clients so that there should be no issue over parking availability at the property.

Chairman Rosenberger opened the meeting up for public comment.

-Ms. Mary Jester, owns the property beside and two properties across from Ms. Schreiber stated she has no problem with what Ms. Schreiber has requested.

-Dr. Glenn Wolffe, questioned the reasons why this issue needed to be considered under a conditional use permitting process. The reason is because the use is not identified as a permitted use in the Town Code. Dr. Wolffe feels that issues of parking and whether or not there are two different businesses are not the main reason it is before the Planning Commission; rather it is because of the use not being permitted. Dr. Wolffe supports allowing this use, he feels the face of medicine is changing and he would like to see holistic medicine as a permitted use in the future.

-Ms. Corrina Limebeck, sister of applicant, stated this type of medicine gave her husband the peace of mind that helped him deal with his illness.

Mr. Ward stated that he could not find anywhere in the Town Code that would disallow this use. His concerns were of the dimensional standards of the site. In the Conditional Use section of the Zoning Ordinance it says that all the other parts of the section shall be considered. Mr. Ward feels that issues such as parking should be considered when looking at a conditional use application.

Ms. Schriebstein listed several known hospitals that offer these types of services. She also said the more accurate term to describe the use is “complementary medicine.”

Mr. Derrickson made a motion to recommend to council that the conditional use application submitted by Ms. Schriebstein be approved. The motion was seconded. Ayes-Cherrix, Derrickson, Richardson, Behr, Wolffe, and Rosenberger. Abstained- Ward.

9. Sight Distance Triangle

Mr. Anderson stated that there is a direct conflict between a section of chapter 58 and a section of the Zoning Ordinance. The issue was already addressed in 2004 first by the Ordinance Committee and then by the Planning Commission. There was a recommendation by the Planning Commission to send it to public hearing but there is no record of that ever happening. Mr. Anderson stated that the first thing that should be done is to eliminate one of the sections so there is no direct conflict between the Town Code and the Zoning Ordinance.

Councilwoman Richardson made a motion for a public hearing to repeal Section 2.149 of the Zoning Ordinance. The motion was seconded. Unanimously approved.

10. Landings for Exterior Doors

Chairman Rosenberger stated that the biggest concern about enlarging the landing is that it not become a deck. The recommended size of 5 feet x 5 feet provides enough room for safe ingress and egress. Mr. Anderson gave some background information such as the current standards require that an exterior doorway have an attached landing that is a minimum of 3 feet x 3 feet. He says there is literature that supports a larger landing for safety purposes. He also does not think that a 5 x 5 foot landing is large enough to become a porch.

Mr. Ward asked from a building code standpoint what were the concerns with a larger landing. Mr. Lewis stated that the concerns are over the fact that landings along with steps are not considered as part of the structure, while a porch or deck is considered part of the structure and therefore subject to setback requirements. If there is a 25' setback and the house is only 10' from the road (grandfathered), a deck could not be placed on the front of the structure but steps and a landing could.

Councilwoman Richardson made a motion to set a date for public hearing to amend the zoning ordinance to allow for a 5 feet x 5 feet landing.

11. Building Permit Update

Already handed out last month, nothing new.

12. Sign Ordinance- Town Attorney's Observation

Chairman Rosenberger asked Mr. Anderson if he could provide each Planning Commissioner with the latest version of the Sign Ordinance that was sent to Mr. Poulson. This will be an agenda item next month.

Commission Members Announcements or Comments

NONE

There was a motion and a second to adjourn the meeting.

MEMORANDUM

To: Planning Commission

From: Jared B. Anderson, Town Planner

Date: August 17, 2007

Subject: Sight Distance Triangles, Code & Zoning Ordinance- Public Hearing

Please review and if you have any questions please feel free to contact me (email: jared@chincoteague-va.gov, or 336-6519).

At the July 18, 2007 Planning Commission meeting, it was identified that the term “Sight Distance Triangle” was mentioned once in the Code under Chapter 58 and once in the definitions of the Zoning Ordinance. These instances created a direct conflict which needed to be rectified. The proper advertisement has been issued, therefore the next proposed step is a public hearing.

During the August 8, 2007 Ordinance Committee, the Planning Commission’s recommendation to move the sight triangle from a point 10 feet from the intersecting line, to a point 15 feet from an intersecting line was discussed. After which the ordinance committee agreed with the planning commission and decided to forward that recommendation to Council.

The decision for the Planning Commission, after the public hearing is to decide whether to recommend to Council a repeal of Section 2.149 Sight Distance Triangle.

If the Planning Commission so desires a motion could read “move to recommend that Section 2.149 of the Zoning Ordinance be repealed.”

MEMORANDUM

To: Planning Commission

From: Jared B. Anderson, Town Planner

Date: June 18, 2007 [**August 17, 2007**]

Subject: Exterior Door Landings

This Memorandum is reference to concerns over the lack of maneuverable space allowed for landings. Please review and if you have any questions please feel free to contact me (email: jared@chincoteague-va.gov, or 336-6519).

[This is the same memo I gave to the Planning Commission for the June 26, 2007 meeting. I just wanted to make sure everyone has a copy to go over before the public hearing.]

Currently, the Virginia Uniform Statewide Building Code (2003 Edition) states that “every landing shall have a minimum dimension of 36 inches (914 cm) measured in the direction of travel... [Additionally] the width of each landing shall not be less than the door served” (36 inch minimum).

There have been concerns that 36” x 36” for an exterior door landing is insufficient especially when there are mobility issues. There is literature that supports an increase in size for a landing so that persons with disabilities can safely maneuver in and out of an exterior doorway. The Center for Universal Design at North Carolina State University recommends a 5’ x 5’ landing for persons with disabilities.

The staff recommends the following amendments to sections 3.3.2, and 3.12.2 of the Zoning Ordinance:

Setback. Structures [**excluding steps, and a landing not greater than 5 Feet x 5 Feet**] shall be located a minimum of 50 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance. This distance shall be known as the setback line.

The staff recommends the following amendments to sections 3.6.2, 3.9.2 of the Zoning Ordinance:

Setback. Structures **[excluding steps, and a landing not greater than 5 Feet x 5 Feet]** shall be located a minimum of 25 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance.

The staff recommends the following amendments to sections 4.3.2, and 4.6.2 of the Zoning Ordinance:

Setback. Structures **[excluding steps, and a landing not greater than 5 Feet x 5 Feet]** shall be located a minimum of 10 feet from any street right-of-way. When a structure is to be built in an area where there are existing structures, the minimum setback may be waived, and the setback line may be the average setback of the structures on either side. This shall not apply to corner lots or new subdivisions after enactment of this ordinance.

The staff recommends the following amendment to Section 3.3.5 of the Zoning Ordinance:

Corner lots.

(2) The side yard abutting or next to the street shall be 35 feet for both the main and accessory buildings/ structures **[excluding steps, and a landing not greater than 5 Feet x 5 Feet]**.

The staff recommends the following amendments to Sections 3.6.5, and 3.9.5 of the Zoning Ordinance:

Corner lots.

(2) The side yard abutting or next to the street shall be 25 feet for both the main and accessory buildings/ structures **[excluding steps, and a landing not greater than 5 Feet x 5 Feet]**.

The staff recommends the following amendments to Sections 4.3.5, and 4.6.5 of the Zoning Ordinance:

Corner lots.

(2) The side yard abutting or next to the street shall be 10 feet for both the main and accessory buildings/ structures **[excluding steps, and a landing not greater than 5 Feet x 5 Feet]**.

**If the Planning Commission so desires a motion could read
“move to recommend that Sections 3.3.2, 3.12.2, 3.6.2, 3.9.2,
4.3.2, 4.6.2, 3.3.5, 3.6.5, 3.9.5, 4.3.5, and 4.6.5 of the Zoning
Ordinance be amended.”**

MEMORANDUM

To: Planning Commission

From: Jared B. Anderson, Town Planner

Date: August 20, 2007

Subject: Review of Conditional Use Process and Special Exception Process

Please review and if you have any questions please feel free to contact me (email: jared@chincoteague-va.gov, or 336-6519).

Both Conditional Use and Special Exception processes for the Town are important to the zoning and general well-being of the Town. It is vital that town staff as well as council and committee members understand why we have them. It is also important to know when these processes are to be utilized and what steps are needed to be taken to correctly navigate through the Conditional Use and Special Exception processes.

Conditional Use Process

Under the Town of Chincoteague's Zoning Ordinance all uses not delineated as 'uses permitted by right' or by 'special exception' fall into a conditional use permitting process. Attached is "Diagram A" that should assist in understanding the conditional use permitting process; however it does not replace the Zoning Ordinance and is to be used only as a supplement to the ordinance. There is a list of *standards* (page CDA 77-78) that should be considered when reviewing any Conditional Use Application. These standards could also be considered guidelines which the applicant follows and the planning commission and council use to determine the recommendations and actions on conditional use requests. In addition there are a set of *conditions and bonds* (page CDA 78-79) that may be instituted by the Council to protect the public health, safety and general welfare of the Town.

Site Plan

Any application for a conditional use permit shall be accompanied by as site development plan, which shall include the following information:

1. Vicinity map with North Arrow, original date, revision dates, and graphical scale.
2. Property lines, if applicable include limits of development line
3. Tax Identification number
4. Name and Address of property owner and developer if applicable
5. Name of adjacent property owners which any drainage or utility easement may be required

6. Zoning district designation of parcel
7. The nature of the land use(s)
8. The names, route numbers, and locations of existing and proposed public and private streets, alleys and easements on or adjacent to the site
9. The exact location of buildings or structures existing on or proposed for the site
10. The location of existing and proposed septic systems
11. The location, type, and size of site access points such as driveways, curb openings, and crossovers. Distances to neighboring access points, median openings, intersections and traffic signals shall be provided
12. Off-street parking areas and parking spaces including handicapped spaces, loading spaces, and walkways indicating types of surfacing, size, angles of stalls, width of aisles, and a specific schedule showing the number of spaces provided and the number required by this ordinance.
13. The location of existing and proposed signs on the property
14. The location and type of proposed exterior lighting, including the height of poles, and type and wattage of fixtures
15. An erosion and sediment control plan, where required
16. A stormwater management plan, where required
17. Any additional information requested by the zoning administrator

There are also provisions for an applicant who has been aggrieved by the Town or any of its agents to file a petition to the Circuit Court within 30 days of the decision for a conditional use application.

Board of Zoning Appeals- Special Exception

The Board of Zoning Appeals is a court-appointed quasi-judicial entity. In addition to hearing special exception cases, they also entertain variance cases from the Zoning Ordinance. Attached is "Diagram B" which delineates the steps that need to be followed for a special use permit.

A Special Exception is "a use category of a zoning ordinance which allows land uses that may have some characteristics which are incompatible with adjacent uses. The right to issue such special exceptions shall be delegated by the governing body to the Board of Zoning Appeals. If issued by the Board of Zoning Appeals such an exception is granted by "special use permit."

The BZA requires that an applicant for a special use permit submit written comments from all property owners within 300 feet of the boundary line of the property of which action is to be taken.

The BZA might impose certain conditions when issuing a special use permit, including a time limit for the permit, and/or requiring a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. The BZA may also include additional requirements for area, setback, side yard and rear yard, lighting, noise and odor control and location of streets including ingress and egress.

There must be proper notice and a public hearing before any special use permit will be granted. The BZA shall consider the general character of the surrounding neighborhood and the preservation and creation of an attractive and harmonious community.

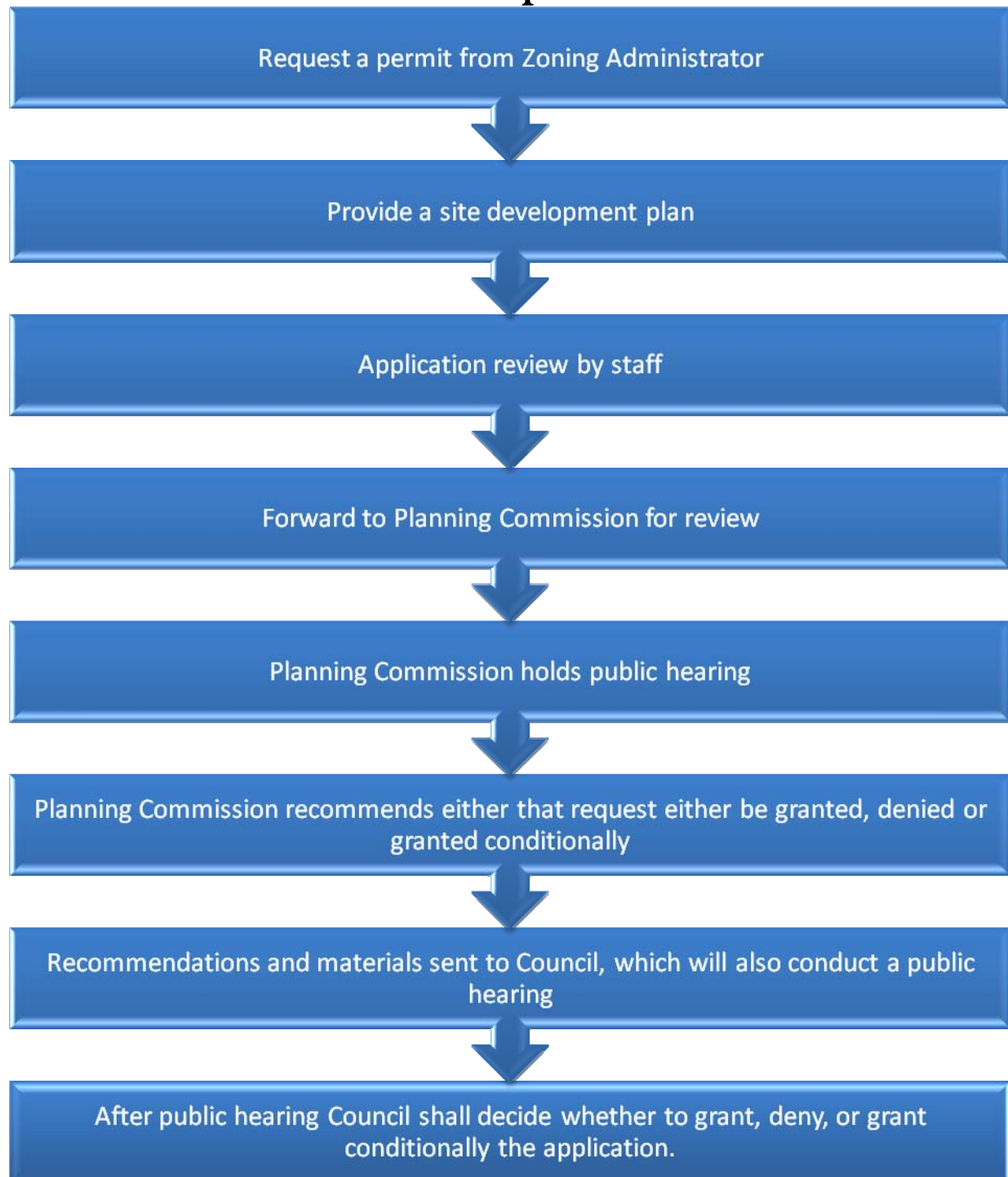
The applicant of a special use permit that has been granted has one year to start construction or begin the use before the permit will expire.

Any person or persons who have been aggrieved by a decision of the BZA may petition the Circuit Court within 30 days after the filing of the decision in the office of the board.

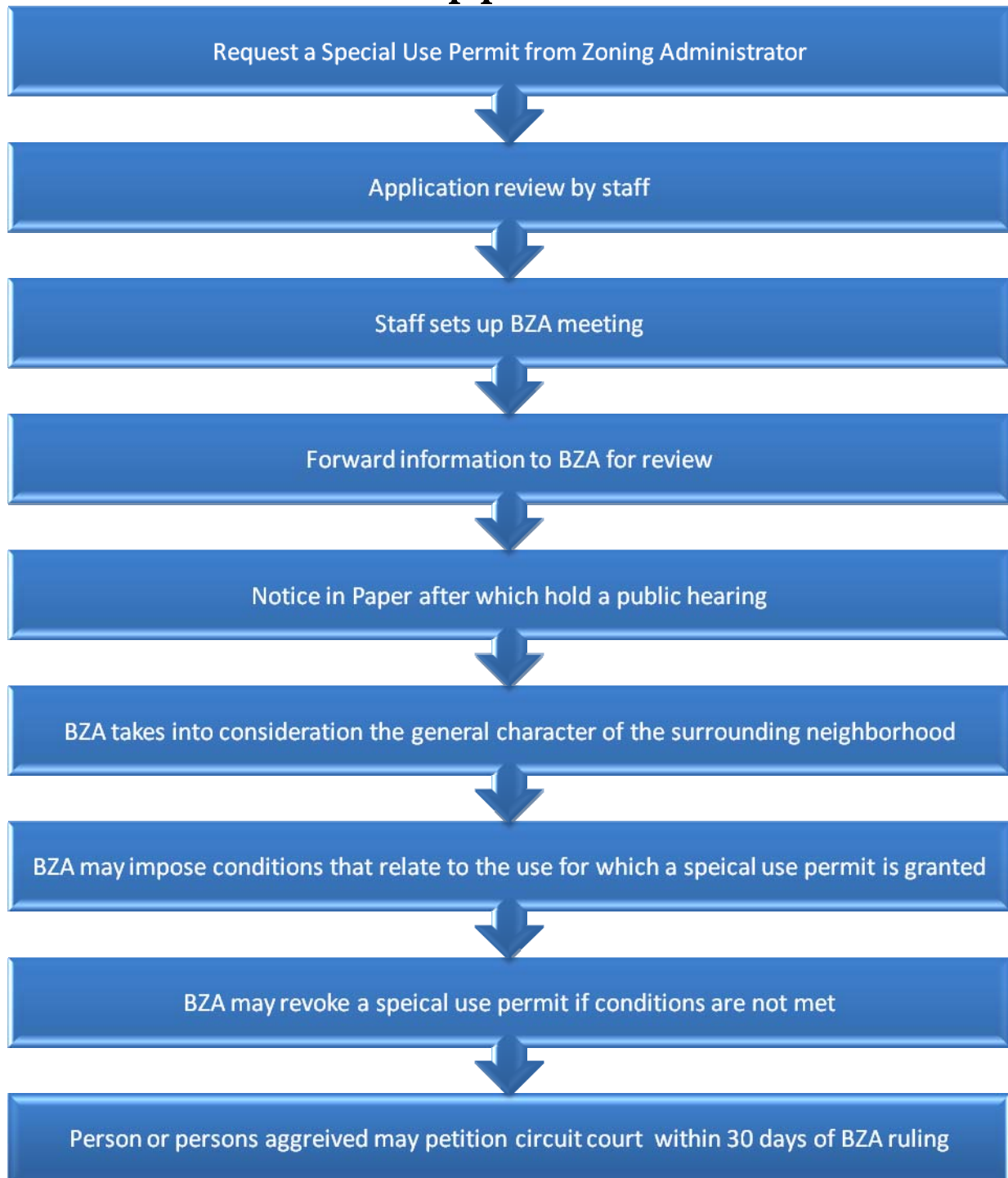
Conclusion

These two processes which are laid out in the Town's Zoning Ordinance allow uses not permitted by right in certain areas, in certain instances. This synopsis and subsequent diagrams cannot replace the code itself but rather it can help facilitate in the understanding of the code.

“Diagram A” Conditional Use Permit Steps



“Diagram B” Special Exception-Special Use Permit Board of Zoning Appeals



MEMORANDUM

To: Planning Commission

From: Jared B. Anderson, Town Planner

Date: August 20, 2007

Subject: Comprehensive Plan Stakeholder Group Meetings

Please review and if you have any questions please feel free to contact me (email: jared@chincoteague-va.gov, or 336-6519).

One of the main ideas to come out of the June 28, 2007 joint Council/ Planning Commission meeting with our consultant Pete Johnston was the idea of having stakeholder group meetings. Mr. Eric Kelly who wrote *Community Planning: An Introduction to the Comprehensive Plan* stated that stakeholder meetings could include participation by “neighborhood associations, environmental organizations, chamber of commerce, home builders, bankers, interested citizens, and other known interest groups.”

After talking with the consultant the idea is to have 3 or 4 meetings all in one day in the small conference room or council chambers. At least one of the meetings would be an evening meeting to allow for those that work. Ideally there would be no more than 10 stakeholders at each meeting so as to keep the meeting at a more personal level.

The reason for conducting these stakeholder meetings is to make sure people understand what was presented on June 28, entertain any questions and concerns the stakeholders might have with the most recent draft, and finally to try to gain some consensus for moving forward in the Comprehensive Plan update process.

After presenting this idea to Council during the August 6, 2007 meeting, they agreed that this was the next logical step before presenting this draft at a public hearing. Staff encourages members of the Planning Commission to submit a few names of stakeholders that might be interested in participating.

MEMORANDUM

To: Planning Commission

From: Jared B. Anderson, Town Planner

Date: August 21, 2007

Subject: Sign Ordinance Review

Please review and if you have any questions please feel free to contact me (email: jared@chincoteague-vi.gov, or 336-6519).

Last month the Planning Commission was given the Town Attorney's observations on the sign ordinance. Included in this month's agenda packet are the same observations in case someone needs them.

Also included is a copy of the latest version of the planning commission's sign ordinance from which the observations were made. The last thing included is a copy of the results from the sign ordinance survey completed in 2004.

To my knowledge the planning commission was waiting to receive comments on the sign ordinance before they held a public hearing. Staff recommends that the planning commission review and analyze comments made by the Town's Attorney and if so desired set a date for a public hearing.

**If the Planning Commission so desires a motion could read
"move to send the proposed Sign Ordinance to public hearing
pursuant §15.2-2204 of the Code of Virginia."**

MEMORANDUM

To: Planning Commission

From: Mr. Jared B. Anderson, Town Planner

Date: August 24, 2007

Subject: Pony Pines Major Subdivision

Please review and if you have any questions please feel free to contact me (email: jared@chincoteague-va.gov, or 336-6519).

At the June 26, 2007 Planning Commission meeting the plat for the Pony Pines Major Subdivision was addressed. There were concerns raised by Planning Commissioners and thus there was a motion to postpone any action by the Commission. The following excerpt is from those meeting minutes:

Minutes from the June 26, 2007 Planning Commission

Pony Pines Major Subdivision

Representing the Pony Pines Subdivision Project were Mr. Fred Schmidt, Jr. (managing partner), Mr. Robin Kohn (architect), and Mr. Cooley (engineer). Mr. Schmidt explained that since their meeting with the BZA the developers have been contemplating the elimination of units 18 and 19 in favor of a swimming pool. Mr. Schmidt stated that they also have an option to change the orientation of the decks so they would be facing a different direction. Mr. Ward stated that he likes the idea because it allowed for the decks to be facing towards the pool so people could watch their kids.

Mr. Behr then stated that there had been some issues with water runoff, he asked if the developers could explain the situation. Mr. Schmidt stated that the engineer working on the project, Mr. Cooley did not feel as though the site needed off-site drainage. Mr. Schmidt then asked if the Planning Commission could relieve the developers of the condition set forth by the BZA which required Pony Pines, LLC to provide off-site drainage. Mr. Lewis stated that if the developers wanted to be relieved of the conditions set forth by the BZA then they need to go back to the BZA, because the Planning Commission does not have that power. He also stated that Pony Pines LLC could only appeal the conditions set forth by the BZA within 30 days of the hearings, and since they did not take action within the specified time they cannot appeal the BZA's decision.

Mr. Ward asked if the developer would be willing to move the street light fixtures down from 25 feet to a lower distance so as to reduce light noise to surrounding area. The developers stated they would look into that.

It was also stated by Mr. Lewis that neither himself nor the roads engineer, Mr. Cosby have signed off on the plat.

Mr. Schmidt raised concerns about the proposed zoning changes in C-1, and C-2 to Townhouses, Condominiums, and Multi-Family Dwellings and how they would affect Pony Pines. Mr. Lewis stated that only if there was an approved plat would a project be grandfathered.

Mr. Rosenberger allowed citizens to voice their concerns during a public comment period. The first citizen was Mrs. Audet who is an adjoining property owner. Mrs. Audet has concerns about appearance of the above ground septic systems that were being placed close to her property. She asked why the septic systems could not be placed in another section of the lot. Mr. Ward suggested that the developer put fencing at the ten foot setback line and then add landscaping to enhance the aesthetics of the project.

Mrs. Joyce Crawford who is the secretary for the Grand Bay Homeowners Association came to the meeting to represent the association. She said that many of the residents do not have a problem with the project itself; however they have concerns over drainage from Pony Pines disturbing the pond. She said that homeowners also have concerns over the number of parking spaces in the development.

Lastly, Ms. Ann Swift who owns the Assateague Channel Marina and Lodge stated that she has no problems with the Pony Pines development, and considering the previous use she welcomes the proposed residential use.

To answer some of the concerns of the adjoining property owners Mr. Cooley stated that the slope of the land at the project site is situated so that run-off will go towards the channel and not the pond. He also stated that the amount of impervious surface on the lot will stay relatively the same as before. Additionally, he said the reason the septic systems are going to be located where they are is because that is the only undisturbed ground on the lot.

Mr. Ward made a motion to delay a decision on the plat until the developer can come back with the changes indicated, there was a second. The motion was approved unanimously.

After listening to the audio of the June 26, 2007 meeting I have come up with a short list of requests made by the Planning Commissioners and citizens to the Pony Pines development:

- 1. Possibly change the orientation of the decks to view the channel and also to keep some of the noise inside the development.**
- 2. There was concern that the light pole at 25 feet was too high, in order to reduce some of the light disturbance on other adjoining properties there as a recommendation to lower the height of the fixture and/or put dome caps so as to keep the light down.**

- 3. There was a recommendation by Commission to move fence on Westside of property back ten feet and put vegetation outside of that to soften the landscape.**
- 4. There was confusion as to whether there was going to be a swimming pool in lieu of units 18, and 19. The updated plat must show one way or another what developer intends to do with this area.**

Attached to your agenda packets are the revised plats for Pony Pines, please review and bring plats with you to the meeting. I believe Mr. Schmidt will be in attendance on August 28, 2007 to answer any questions or concerns the Planning Commission has in regards to Pony Pines and the subsequent updates that have been made.